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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,527	02/09/2004	Jeffrey L. Robbin	101-P271/P3060US1	1033

67521 7590 05/23/2008

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EXAMINER	
POLLOCK, GREGORY A	

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
05/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/775,527	ROBBIN, JEFFREY L.	
	Examiner	Art Unit	
	GREG POLLOCK	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to Applicant's amendment and request for reconsideration of application 10/775527 filed 02/27/2008.

The amendment contains previously presented claims 2-6, 9, 10, 12-16, 19, 20, and 22.

The amendment contains amended claim 1, 7, 8, 11, 17, 18, 21, 23, and 24.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60465410, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The

content of claims 1-24 were not disclosed in the provisional Application No. 60465410.

a. As to claims 1, 11, and 23 there is no support in a prior-filed application for the limits "priority levels associated with the different media-based actions" or "a task manager that manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels".

b. As to claims 2 – 10, 12-22, and 24 these are dependent claims to independent claims 1, 11, or 23 and, therefore, are also unsupported by the prior-filed application.

Accordingly, claims 1-24 are not entitled to the benefit of the prior application.

Claim Objections

3. Claim 11 is objected to because of the following informalities: lines 1-2 read "A computer readable medium including at least at least executable computer program code" should be corrected to "A computer readable medium including at least executable computer program code".

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 21 recites the limitation "the at least one application program" in line 3. There is insufficient antecedent basis for this limitation in the claims since the claims only mention a single client application and more than one (at least one).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieh et. al. (Jason Nieh and Monica S. Lam, "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications", Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, St. Malo, France (October, 1997)) in view of Homer (US Application 09/910438, date of publication: April 11, 2002).

As per claim 1, Nieh et. al. teaches a method for managing tasks performed on a computer ("SMART (Scheduler for Multimedia And Real-Time applications), a processor scheduler that fully supports the application characteristics described above"[pg. 2, paragraph 4, lines 1-2], where the scheduler is the task manager

and the processor is the computer. The "application characteristics described above" refer to Section 1.1 and include: Soft real-time constraints (ex. audio/video synchronization [pg. 1, paragraph 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, paragraph 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, paragraph 9], co-existence with conventional computations (ex. compilers) [pg. 1, paragraph 10], and Dynamic environment [pg. 2, paragraph 2], User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, paragraph 3]) capable of coupling over a network to a network-based media server ("all experiments were performed with all system functions running, the window system running, and the system connected to the network." [see pg. 9, paragraph 3, lines 1-5], where the experiments refer to test run using SMART to demonstrate its effectiveness), said method comprising:

receiving tasks to be performed from a single client application operating on the computer (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3]), the tasks pertaining to one or more different media-based actions (SMART experiments used the Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories for both displaying news (synchronized audio and video streams) and entertainment (video) [see pg. 8, paragraph 14 and 15]), and

Nieh et. al. does not specifically teach that the tasks involving interaction with the media server over the network;

Homer teaches "an electronic media distribution/play system includes a service facility that has a communications network interface" [Abstract lines 1-3] where the service facility "can be implemented as a server computer" [pg. 2, paragraph 29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [pg. 7, paragraph 0060, lines 1-13]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as downloading and browsing the Internet) as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

Nieh et. al. does not specifically teach activating an operation at the computer to respond to each of the tasks;

One skilled in the art would recognize that the SMART task manager of Nieh et. al. fully supports co-existence with conventional computations "[pg. 2, paragraph 4, lines 1-2] such as activating an operation in response to each task [pg. 1, paragraph 10]. Also, the SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3]), the tasks pertain to one or more different media-based actions (SMART experiments used the Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories for both displaying news (synchronized audio and video streams) and entertainment (video) [see pg. 8, paragraph 14 and 15]). For the news and entertainment (video) to be operational, an operation at the computer must have been activated in respond to each of the (news and entertainment) tasks.

and coordinating performance of the activated operations in accordance with priority levels associated with the different media-based actions of the tasks, each of the different media-based actions having a different priority level. ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6]).

As per claim 2, the rejection of claim 1 has been addressed.

Nieh et. al. further teaches a method wherein the priority levels are provided on a per-computer basis ("most users will run the applications in the default priority level with equal shares. This is the system default and requires no user parameters." [see pg. 3, paragraph 4, lines 1-3], where the system default is provided with the computer) or a per-user basis. ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7])

As per claim 3, the rejection of claim 1 has been addressed.

Nieh et. al. further teaches a method wherein said coordinating operates to coordinate the execution of the activated operations pertaining to a particular user of the computer based on the priority levels. ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7] and ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6])

As per claim 4, the rejection of claim 1 has been addressed.

Nieh et. al. further teaches a method wherein the priority levels associated with the different media-based actions are user-modifiable. ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7])

As per claim 5, the rejection of claim 1 has been addressed.
Nieh et. al. does not teach a method wherein the different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media.

Homer teaches previewing media ("play preview" [pg. 7, paragraph 63, line 14]), browsing media (uses a catalog to browse media [pg. 7, paragraph 63, line 11]), purchase media (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, paragraph 10, lines 7-10]) and download media ([referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, paragraph 35, lines 23-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing, browsing, purchasing, and downloading using the Internet) as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across

real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 6, the rejection of claim 5 has been addressed.
Nieh et. al. does not teach a method wherein the media includes at least one of audio, video or images.

Homer teaches that its electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which include text-only material (images), audio, and video ([pg. 2, paragraph 31, lines 15-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing, browsing, purchasing, and downloading images, audio and video using the Internet) as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 7, the rejection of claim 6 has been addressed.

Nieh et. al. further teaches a method wherein the at least one client application is a client media player program. (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3])

As per claim 8, the rejection of claim 1 has been addressed.

Nieh et. al. further teaches a method wherein the client applications is a client media player program. (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3])

As per claim 9, the rejection of claim 1 has been addressed.

Nieh et. al. further teaches a method wherein the media includes at least audio,

Nieh et. al. does not teach the different media-based actions of the media server include at least: previewing music, browsing music, purchasing music, and downloading music.

Homer teaches that its electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which includes audio

(pg. 2, paragraph 31, lines 15-25]). Homer further teaches previewing media ("play preview" [pg. 7, paragraph 63, line 14]), browsing media (uses a catalog to browse media [pg. 7, paragraph 63, line 11]), purchase media (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, paragraph 10, lines 7-10] and download media [referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, paragraph 35, lines 23-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing music, browsing music, purchasing music, and downloading music using the Internet) as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 10, the rejection of claim 9 has been addressed.

Nieh et. al. further teaches a method wherein the priority levels associated with the different media-based actions are user-modifiable.("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7])

As per claim 11, Nieh et. al. teaches a computer readable medium including at least executable computer program code tangible stored thereon for managing tasks performed on a computer ("SMART (Scheduler for Multimedia And Real-Time applications), a processor scheduler that fully supports the application characteristics described above" [pg. 2, paragraph 4, lines 1-2], where the scheduler is the task manager and the processor is the computer. The "application characteristics described above" refer to Section 1.1 and include: Soft real-time constraints (ex. audio/video synchronization [pg. 1, paragraph 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, paragraph 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, paragraph 9], co-existence with conventional computations (ex. compilers) [pg. 1, paragraph 10], and Dynamic environment [pg. 2, paragraph 2], User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, paragraph 3]) capable of coupling over a network to a network-based media server ("all experiments were performed with all system functions running, the window system running, and the system connected to the network." [see pg. 9, paragraph 3, lines 1-5], where the experiments refer to test run using SMART to demonstrate its effectiveness)

capable of coupling over a network ("all experiments were performed with all system functions running, the window system running, and the system connected to the network." [see pg. 9, paragraph 3, lines 1-5], where the experiments refer to test run using SMART to demonstrate its effectiveness).

Nieh et. al. does not specifically teach that it was coupled to a network-based media server.

Homer teaches "an electronic media distribution/play system includes a service facility that has a communications network interface"[Abstract lines 1-3] where the service facility "can be implemented as a server computer" [pg. 2, paragraph 29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [pg. 7, paragraph 0060, lines 1-13].

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as downloading and browsing the Internet)as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be

to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

computer program code for receiving tasks to be performed from a single client application operating on the computer (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3]), the tasks pertain to one or more different media-based actions (SMART experiments used the Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories for both displaying news (synchronized audio and video streams) and entertainment (video) [see pg. 8, paragraph 14 and 15]),

Nieh et. al. does not specifically teach that the tasks involving interaction with the media server over the network.

Homer teaches "an electronic media distribution/play system includes a service facility that has a communications network interface"[Abstract lines 1-3] where the service facility "can be implemented as a server computer" [pg. 2, paragraph 29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [pg. 7, paragraph 0060, lines 1-13]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as downloading and browsing the Internet)as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

computer program code for coordinating performance of the tasks in accordance with priority levels associated with the different media-based actions of the tasks, each of the different media-based actions having a different priority level. ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6])

As per claim 12, the rejection of claim 11 has been addressed.
Nieh et. al. further teaches a computer readable medium wherein the priority levels are provided on a per-computer basis ("most users will run the applications in the default priority level with equal shares. This is the system default and requires no user parameters." [see pg. 3, paragraph 4, lines 1-3], where the

system default is provided on a per-computer basis) or a per-user basis("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7]).

As per claim 13, the rejection of claim 11 has been addressed.
Nieh et. al. further teaches a computer readable medium wherein said computer program code for coordinating operates to coordinate the performance of the tasks pertaining to a particular user of the computer based on the priority levels. ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7] and ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6])

As per claim 14, the rejection of claim 11 has been addressed.
Nieh et. al. further teaches a computer readable medium wherein the priority levels associated with the different media-based actions are user-modifiable. ("The user can specify that applications have different priorities" [see pg. 3, paragraph 3, lines 6-7])

As per claim 15, the rejection of claim 11 has been addressed.

Nieh et. al. does not teach a computer readable medium wherein the different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media.

Homer teaches previewing media ("play preview" [pg. 7, paragraph 63, line 14]), browsing media (uses a catalog to browse media [pg. 7, paragraph 63, line 11]), purchase media (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, paragraph 10, lines 7-10]) and download media ([referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, paragraph 35, lines 23-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing, browsing, purchasing, and downloading using the Internet)as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 16, the rejection of claim 15 has been addressed.
Nieh et. al. does not teach a computer readable medium wherein the media includes at least one of audio, video or images.

Homer teaches that its electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which include text-only material (images), audio, and video ([pg. 2, paragraph 31, lines 15-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing, browsing, purchasing, and downloading images, audio and video using the Internet)as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 17, the rejection of claim 16 has been addressed.

Nieh et. al. further teaches a computer readable medium wherein the client application is a client media player program. (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3])

As per claim 18, the rejection of claim 11 has been addressed.
Nieh et. al. further teaches a computer readable medium wherein the client application is a client media player program. (SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities [see pg. 8, paragraph 13, lines 1-3])

As per claim 19, the rejection of claim 11 has been addressed.
Nieh et. al. does not teach a computer readable medium wherein the media includes at least audio,and wherein the different media-based actions of the media server include at least: previewing music, browsing music, purchasing music, and downloading music.

Homer teaches that its electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which includes audio

([pg. 2, paragraph 31, lines 15-25]). Homer further teaches previewing media ("play preview" [pg. 7, paragraph 63, line 14]), browsing media (uses a catalog to browse media [pg. 7, paragraph 63, line 11]), purchase media (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, paragraph 10, lines 7-10]) and download media [referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, paragraph 35, lines 23-25]).

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing music, browsing music, purchasing music, and downloading music using the Internet)as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 20, the rejection of claim 19 has been addressed.

Nieh et. al. further teaches a computer readable medium wherein the priority levels associated with the different media-based actions are user-modifiable. ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7])

As per claim 21, the rejection of claim 11 has been addressed.
Nieh et. al. does not teach a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating are part of the client application.

However, Nieh et. al. does teach that the SMART scheduling algorithm was implemented in the Solaris UNIX operating system ([see pg. 1, paragraph 4, lines 3-4]). It would be obvious to one skilled in that the scheduling algorithm can be part of an application which could be called by the operating system to coordinated tasks to enhance user satisfaction.

As per claim 22, the rejection of claim 11 has been addressed.
Nieh et. al. teaches a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating are part an operating system program that operates on the computer. (the SMART scheduling algorithm was implemented in the Solaris UNIX operating system [see pg. 1, paragraph 5, lines 3-4])

9. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homer (US Application 09/910438, date of publication: April 11, 2002) in view of Nieh et. al. (Jason Nieh and Monica S. Lam, "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications", Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, St. Malo, France (October, 1997)).

As per claim 23, Homer teaches a computer for presenting media to its user (Figure 1, element 15C), said computer comprising:
a client media application program (Figure 1, element 42) operable to enable the user to play (media players are known devices for accessing media files [pg. 2, paragraph 31, lines 15-25]), browse (uses a catalog to browse media [pg. 7, paragraph 63, line 11]), preview ("play preview" [pg. 7, paragraph 63, line 14]), purchase (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, paragraph 10, lines 7-10]) download [referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, paragraph 35, lines 23-25]) or present media items for the benefit of the user;

Homer teaches a network interface (Figure 1, element 26) that permits said client media application program to interact with a media commerce server ("an electronic media distribution/play system includes a service facility that has a communications network interface" [Abstract lines 1-3] where the service facility "can be implemented as a server computer" [pg. 2, paragraph 29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [pg. 7, paragraph 0060, lines 1-13]) that stores or manages a plurality of media items that can be browsed, previewed, purchased or downloaded (see Figure 1, element 10 is a distribution facility);

Homer does not teach a task manager that manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels.

Nieh et. al. teaches a task manager ("SMART (Scheduler for Multimedia And Real-Time applications) " [pg. 2, paragraph 4, lines 1-2]) that manages performance of at least browse, (Soft real-time constraints (ex. audio/video synchronization [pg. 1, paragraph 7]) preview, (Soft real-time constraints (ex.

audio/video synchronization [pg. 1, paragraph 7]), purchase (co-existence with conventional computations [pg. 1, paragraph 10]), or download operations (co-existence with conventional computations [pg. 1, paragraph 10]) in accordance with the assigned priority levels ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6])

One skilled in the art at the time of the invention would be able to surmise that SMART of Nieh et. al., which is able to fully support co-existence with conventional computations (such as previewing, browsing, purchasing, and downloading using the Internet) as previously referenced, can be used with the rechargeable media distribution and play system of Homer to interact with a media server while performing other media and non-media based tasks. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

As per claim 24, the rejection of claim 23 has been addressed.
Homer does not teach a computer wherein each of the browse, preview, purchase or download operations are executed by a different processing. However, one skilled in the art would be recognize that each of these processes

can occur independently and concurrently as separate tasks depending on the utilization of the user.

Homer does not teach that said task manager causes the processing to be performed in accordance with the assigned priority levels.

Nieh et. al. teaches that SMART allows the user to define priorities and that those priorities determine resource allocation ("The user can specify that applications have different priorities" [see pg.3, paragraph 3, lines 6-7] and ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, paragraph 2, lines 2-6]).

One skilled in the art at the time of the invention would be able to combine Homer's media player functions of Homer's with the task manager Nieh et. al. of to process the browse, preview, purchase or download operations at specified priority levels. The purpose of such a combination would be to allow the user to prioritize across real-time and conventional computations, and dictate how the processor is to be shared among applications.

Response to Arguments

10. Applicant's arguments with regards to claims 10/775527, filed 02/27/2008 have been fully considered but they are not persuasive.

11. Applicant has argued that the amended claims are not taught by the rejection material presented in the prior office action. The examiner respectfully disagrees and believes that the art cited covers each of the claim limitations as amended.

12. The applicant has argued that modifying the claim limits from "receiving tasks to be performed from at least one client application" to "receiving tasks to be performed from a single client application" in claims 1 and 11 has overcome the cited prior art.

13. In response, the applicant is directed to Nieh et al. (Jason Nieh and Monica S. Lam, "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications", appearing in "Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles", St. Malo, France, October, 1997) [pg. 8, para. 13, lines 1-3] where it states that "SMART experiments receiving tasks from the "The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories" to demonstrate its capabilities". Therefore, as claimed, the "tasks pertaining to one or more different media-based actions" are received from one application, the Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories. Also note that prior art made of record and not

relied upon cited in the non-final office action dated 11/28/2007, teaches user defined priority levels originating from a single application used to for managing tasks performed on a computer. Claims 1 and 11 are method and apparatus claims "comprising" managing tasks performed on a computer. Therefore, the fact that the SMART application is able to perform other functions not related to multi-media is a moot point, since the phrase "comprising" allows the method steps and apparatus to be open-ended. Further, it is well known in the art that software can be partitioned into individual functional blocks. It would be obvious to one skilled in the art at the time of the invention to partition that portion of software which manages multi-media into a separate application which only handles those priorities associated with multi-media. It would also be obvious to one skilled in the art at the time of the invention that that partitioned software can reside either as part of the operating system, or on the multi-media play itself as the applicant discloses in Figure 5 and [¶36].

14. The applicant has argued that modifying the claim limit from "at least one client media player program" to "a client media application program" in claim 23 has overcome the cited prior art.

15. The applicant is directed to Homer (PBPub No. 20020042730)which describes the use of only one "client media application program" [Figure 1, element 42]. As with claims 1 and 11, claim 23 is an apparatus claim "comprising" a computer.

Therefore, the fact that the computer has other components a is a moot point, since the phrase “comprising” allows the content of the computer to be open-ended.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571

270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on 571 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GAP

5/16/2008

/Gregory Pollock/
Examiner, Art Unit 3693

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193